

Honorable Benjamin H. Settle

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

NATHEN BARTON,

Plaintiff

v.

SERVE ALL, HELP ALL, INC.; and
JOHN DOE 1-10,

Defendants.

CASE NO. 3:21-cv-05338-BHS

MOTION TO COMPEL

NOTED DATE:
APRIL 22, 2022

PLEASE TAKE NOTICE that Plaintiff Nathen Barton (hereinafter referred to as “Plaintiff”) moves the Court to compel the Defendant Serve All, Help All, Inc. (“SAHA”) to produce requested interrogatory responses and documents.

On 9/3/2021, the Court entered an Order setting pretrial dates. One such date specified that while discovery must be completed by May 2, 2022, all motions related to discovery must be filed by April 4, 2022.

To preserve his due process rights to receive discovery responses, Plaintiff files the instant motion.

Late “Plaintiff” Discovery

MOTION TO COMPEL - 1 / 10
CASE NO 3:21-CV-05338-BHS

NATHEN BARTON
4618 NW 11TH CIR
CAMAS WA 98607

As a plaintiff, Plaintiff submitted the following interrogatory request to SAHA on 2/25/2022:

2.25.2022 SAHA Interrogatories 5.pdf

This request has not been answered.

As a plaintiff, Plaintiff submitted the following interrogatory request to SAHA on 2/28/2022:

2.28.2022 SAHA Interrogatories 6.pdf

As this was Opposing Counsel's first day of an approximately two published unavailability, Plaintiff is certainly willing to give SAHA an additional two weeks to respond to this request, but wishes the Court to ensure this 2/28/2022 set of interrogatories is answered.

Late "Counter-Defendant" Discovery

It is true that in Dkt. 49 SAHA agrees to dismiss the counterclaim "as filed" but Opposing Counsel announced to the Court that she would be filing a motion for leave to file a new counterclaim. Dkt. 49, 2:2. This new counterclaim will be filed past the date that all motions related to discovery must be filed, and it seems, around the time discovery must be completed:

18	All motions related to discovery must be filed by	April 4, 2022
19	Discovery completed by	May 2, 2022

Therefore, Plaintiff moves this Court to order SAHA to answer the following unanswered and past due discovery:

CD 2.25.2022 SAHA Interrogatories 1.pdf

CD 2.25.2022 SAHA Production 1.pdf

CD 2.27.2022 SAHA Interrogatories 2.pdf

CD 2.27.2022 SAHA Production 2.pdf

1 Similar as above, as a Counter-Defendant, Plaintiff submitted the following discovery
2 requests to SAHA on 2/28/2022:

3 *CD 2.28.2022 SAHA Interrogatories 3.pdf*
4 *CD 2.28.2022 SAHA Interrogatories 4.pdf*
5 *CD 2.28.2022 SAHA Production 3.pdf*

6 Same as above, 2/28/2022 was Opposing Counsel's first day of an approximately two
7 published unavailability, Plaintiff is certainly willing to give SAHA an additional two weeks to
8 respond to these 2/28/2022 request, but wishes the Court to ensure this 2/28/2022 set of
9 interrogatories is answered.

10 **Protecting Plaintiff's Due Process Rights**

11 These 2/28/2021 discovery submissions are important to protect Plaintiff's due process
12 rights. As Plaintiff pointed out in Dkt. 47, SAHA's last minute counterclaim in Dkt. 46 was
13 already evidence of Bad Faith (Dkt. 47 pages 9 & 10) and Undue Delay (Dkt. 47 pages 10 & 11).

14 For Opposing Counsel to announce to the Court she intends to file yet another
15 counterclaim after their first counterclaim was shown to be absolutely meritless in Dkt. 50 is bad
16 faith and undue delay on steroids.

17 Plaintiff asks this Court to ensure Plaintiff's and Counter-Defendant's 2/28/2022
18 discovery requests are answered by SAHA.

19 **Plaintiff has Done His Best to Work with Opposing Counsel**

20 Plaintiff has emailed Opposing Counsel many times on these issues, and attempted to call
21 Opposing Counsel twice. Plaintiff had a phone conference scheduled with Opposing Counsel for
22 4/1/2022 but Opposing Counsel canceled it.

23 Exhibit A shows a number of these attempts to resolve the situation without coming
24 before the Court but alas this Court has set the 4/4/2022 deadline and Plaintiff is out of options
and files this Motion.

s/ Nathen Barton
(signed)

4/3/2022
(Dated)

Nathen Barton
(469) 347 2139
4618 NW 11th Cir
Camas WA 98607

CERTIFICATE OF SERVICE

I hereby certify that on April 3, 2022, I caused the foregoing document to be electronically filed with the Clerk of the Court using the Electronic Filing (CM/ECF) system, which will send notification of such filing to all counsel of record and all pro se parties registered to use the CM/ECF system.

s/ Nathen Barton
Nathen Barton

4/3/2022
(Dated)

**Exhibit A – A Sampling of Attempts to
meet and confer with Opposing Counsel**

The emails shown start on 3/30/2022 – many emails were sent before this date on the subject of what documents and interrogatories SAHA would turn over before 4/4/2022:

Barton v SAHA - Discovery conference update


Nathen Barton <farmersbranch2014@gmail.com>
To: DONNA GIBSON <donna@donnagibsonlaw.com>

Wed, Mar 30, 2022 at 2:33 PM

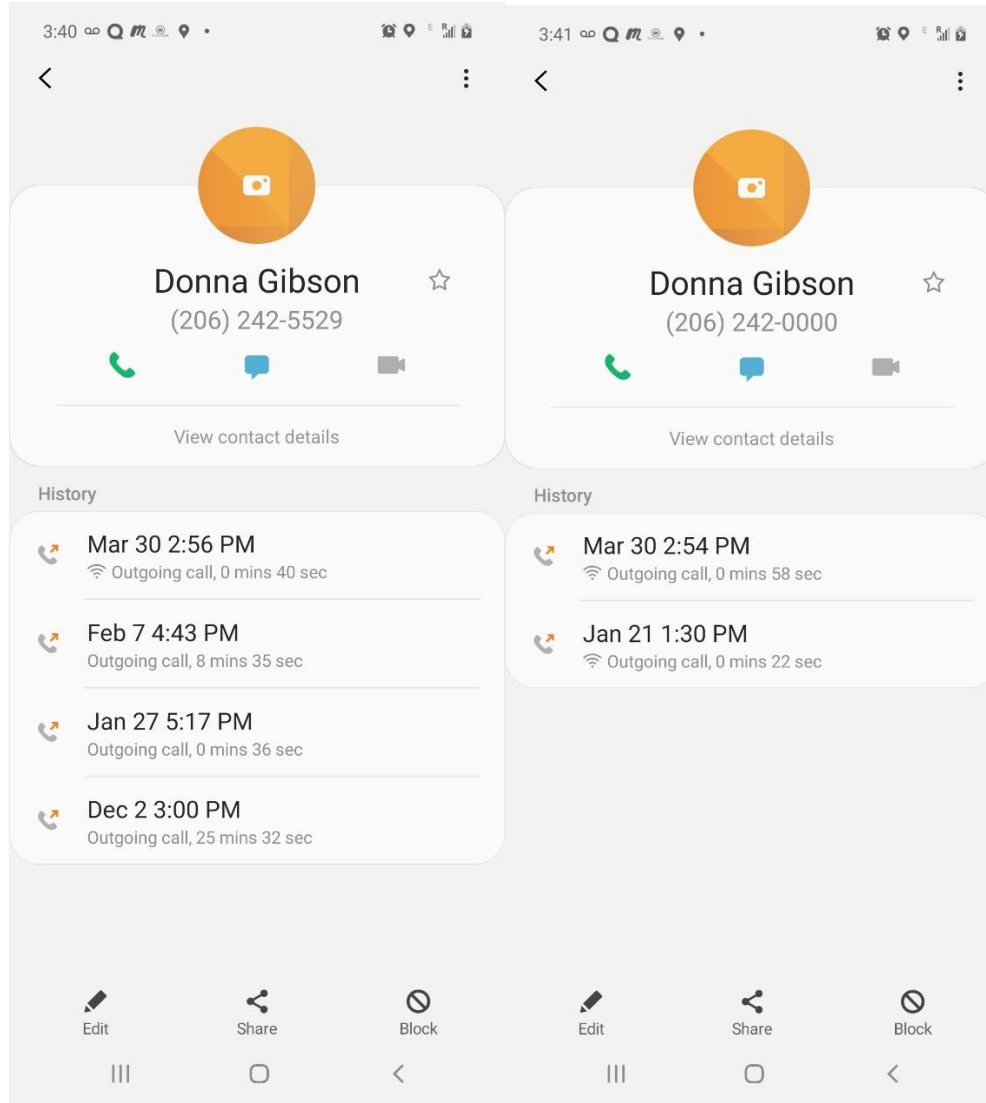
Hello,

Is SAHA turning any discovery over today? I have updated admission #3.

Nathen

 **1.31.2022 1st Admissions ANSWERS SUPP.pdf**
7040K

Plaintiff tried calling Opposing Counsel's home and office phone numbers on 3/30/2022/



Barton v SAHA - Discovery conference update

DONNA GIBSON <donna@donnagibsonlaw.com>
To: Nathen Barton <farmersbranch2014@gmail.com>

Wed, Mar 30, 2022 at 4:43 PM

I am working on the final documents to complete the response. I want to make sure I have all of them.
As soon as I have confirmation, I will be sending the response.
I have been in hearings most of today and then I had to deal with the ER when my mother fell at her nursing home and broke her wrist so it has been a crazy day

[Quoted text hidden]

Donna Gibson
Law Office of Donna Beasley Gibson

206-242-5529 phone
425-332-7068 fax

Delfgauw missing discovery

DONNA GIBSON <donna@donnagibsonlaw.com>
To: Nathen Barton <farmersbranch2014@gmail.com>

Thu, Mar 31, 2022 at 7:37 PM

As I mentioned to you the other day my mother fell at her facility and broke her wrist. She has a follow up appointment at 9 am Friday and I have to drive her. I won't be back until about 11. Can we please do our meeting at 11 ish?

On Mon, Mar 28, 2022 at 7:37 AM Nathen Barton <farmersbranch2014@gmail.com> wrote:

[Quoted text hidden]

[Quoted text hidden]

Delfgauw missing discovery

Nathen Barton <farmersbranch2014@gmail.com>
To: DONNA GIBSON <donna@donnagibsonlaw.com>

Thu, Mar 31, 2022 at 11:10 PM

I will have to find some time later in the day. I will follow up in the morning with some times I am available.

Nathen

[Quoted text hidden]

Delfgauw missing discovery

DONNA GIBSON <donna@donnagibsonlaw.com>
To: Nathen Barton <farmersbranch2014@gmail.com>

Fri, Apr 1, 2022 at 12:47 AM

Just do by email

Donna Gibson
Attorney
Law Office of Donna Beasley Gibson
206-242-5529

[Quoted text hidden]

Delfgauw missing discovery

Nathen Barton <farmersbranch2014@gmail.com>
 To: DONNA GIBSON <donna@donnagibsonlaw.com>

Fri, Apr 1, 2022 at 6:54 AM

Very well, I look forward to hearing your feedback on my document by the end of the day. Further, I had said this would cover SAHA issues.

I will send a separate email.

Nathen
 [Quoted text hidden]



N B <farmersbranch2014@gmail.com>

Barton v SAHA - Discovery conference update?

Nathen Barton <farmersbranch2014@gmail.com>
 To: DONNA GIBSON <donna@donnagibsonlaw.com>

Fri, Apr 1, 2022 at 6:55 AM

Hello,

I have not seen any SAHA discovery turned over. I will have to be filing a motion on this soon if these are not turned over shortly.

Nathen

SAHA

Nathen Barton <farmersbranch2014@gmail.com>
 To: DONNA GIBSON <donna@donnagibsonlaw.com>

Fri, Apr 1, 2022 at 3:24 PM

Hello,

I look forward to seeing that motion. I need to give you the latest version of this document.

Is SAHA turning over discovery today?

Nathen
 [Quoted text hidden]

Motion Rule 11.pdf
 383K

Barton v SAHA - Discovery Conference Update?

Nathen Barton <farmersbranch2014@gmail.com>
 To: DONNA GIBSON <donna@donnagibsonlaw.com>

Sat, Apr 2, 2022 at 2:53 PM

Hello,

Can you tell me what, if anything, SAHA is turning over before 5pm on Monday, April 4, 2022?

Nathen

Barton v SAHA - Discovery Conference Update?

Nathen Barton <farmersbranch2014@gmail.com>
To: DONNA GIBSON <donna@donnagibsonlaw.com>

Sat, Apr 2, 2022 at 7:31 PM

Hello,

If we can't figure this out, I will have to file this motion by close of business Sunday.

Nathen

[Quoted text hidden]



Motion to Compel.pdf
351K

Honorable Benjamin H. Settle

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

NATHEN BARTON,

Plaintiff

v.

SERVE ALL, HELP ALL, INC.; and
JOHN DOE 1-10,

Defendants.

CASE NO. 3:21-cv-05338-BHS

[PROPOSED] ORDER

ORDER

THIS MATTER came before the Court on Plaintiff's MOTION TO COMPEL. Having considered the matter, as well as the pleadings and records in the Court's file and the relevant legal authorities, the Court is full informed. It is HEREBY ORDERED:

Within fifteen (15) days of entry of this order, Serve All, Help All, Inc. must produce answers and documents that are responsive to:

2.25.2022 SAHA Interrogatories 5.pdf
CD 2.25.2022 SAHA Interrogatories 1.pdf
CD 2.25.2022 SAHA Production 1.pdf
CD 2.27.2022 SAHA Interrogatories 2.pdf
CD 2.27.2022 SAHA Production 2.pdf

1 Within fifteen (30) days of entry of this order, Serve All, Help All, Inc. must produce
2 answers and documents that are responsive to:

3 *2.28.2022 SAHA Interrogatories 6.pdf*
4 *CD 2.28.2022 SAHA Interrogatories 3.pdf*
5 *CD 2.28.2022 SAHA Interrogatories 4.pdf*
6 *CD 2.28.2022 SAHA Production 3.pdf*

7 Dated this _____ day of _____, 2022.

8
9 _____
Western District of Washington Judge

10
11
12 APPROVED AS TO FORM

13 _____
s/ Nathen Barton
14 Nathen Barton, Pro Se